

AMENDED IN SENATE SEPTEMBER 2, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1071

Introduced by Assembly Member Emmerson

February 27, 2009

~~An act to amend Sections 4110, 4127.8, 4160, and 4400 of, and to~~
An act to amend Sections 2001, 2020, 2460, 2701, 2708, 3010.5, 3014.6,
3685, 3710, 4001, 4003, 4110, 4127.8, 4160, 4400, and 5810 of, to add
and repeal Section 3686 of, and to repeal Section 4127.5 of, the Business
and Professions Code, relating to pharmacy professions and vocations,
and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1071, as amended, Emmerson. ~~Pharmacy: fees. Professions and~~
~~vocations.~~

(1) Existing law provides for the licensure and regulation of various healing arts licensees by various boards within the Department of Consumer Affairs, including, but not limited to, the Medical Board of California, the California Board of Podiatric Medicine, the Board of Registered Nursing, the State Board of Optometry, the Respiratory Care Board of California, and the California State Board of Pharmacy. Existing law requires or authorizes these boards, with the exception of the California Board of Podiatric Medicine, to appoint an executive director or officer. Under existing law, these provisions will become inoperative on July 1, 2010, and will be repealed on January 1, 2011.

Under this bill, these provisions would become inoperative and be repealed on January 1, 2013. The bill would also make nonsubstantive changes to similar provisions of the Naturopathic Doctors Act.

Existing

(2) *Existing law*, the Pharmacy Law, provides for the licensure and regulation of pharmacies, pharmacists, pharmacy technicians, wholesalers of dangerous drugs or devices, and others by the California State Board of Pharmacy. Existing law imposes fees on these persons and pharmacies for, among other things, application, examination, licensure, and licensure renewal. Under existing law, these fees are fixed by the board based on a fee schedule that sets forth the minimum and maximum fees.

This bill would increase the minimum and maximum fees in that schedule and would make other conforming changes. Because the bill would increase fees that would be deposited into the Pharmacy Board Contingent Fund, which is continuously appropriated, the bill would make an appropriation.

(3) *Existing law provides for the certification of interior designers, and repeals these provisions on January 1, 2010.*

This bill would instead repeal these provisions on January 1, 2013.

(4) *This bill would incorporate additional changes in Section 4110 of the Business and Professions Code proposed by SB 819, to be operative if SB 819 and this bill become effective on or before January 1, 2010, and this bill is chaptered last.*

(5) *This bill would incorporate additional changes in Section 4160 of the Business and Professions Code proposed by SB 821, to be operative if SB 821 and this bill become effective on or before January 1, 2010, and this bill is chaptered last.*

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 2001 of the Business and Professions
- 2 Code is amended to read:
- 3 2001. (a) There is in the Department of Consumer Affairs a
- 4 Medical Board of California that consists of 15 members, seven
- 5 of whom shall be public members.
- 6 (b) The Governor shall appoint 13 members to the board, subject
- 7 to confirmation by the Senate, five of whom shall be public
- 8 members. The Senate Committee on Rules and the Speaker of the
- 9 Assembly shall each appoint a public member.
- 10 (c) Notwithstanding any other provision of law, to reduce the
- 11 membership of the board to 15, the following shall occur:

1 (1) Two positions on the board that are public members having
2 a term that expires on June 1, 2010, shall terminate instead on
3 January 1, 2008.

4 (2) Two positions on the board that are not public members
5 having a term that expires on June 1, 2008, shall terminate instead
6 on August 1, 2008.

7 (3) Two positions on the board that are not public members
8 having a term that expires on June 1, 2011, shall terminate instead
9 on January 1, 2008.

10 (d) ~~This section shall become inoperative on July 1, 2010, and,~~
11 ~~as of January 1, 2011, is repealed, unless a later enacted statute,~~
12 ~~which becomes effective on or before January 1, 2011, deletes or~~
13 ~~extends the dates on which it becomes inoperative and is repealed.~~
14 *This section shall remain in effect only until January 1, 2013, and*
15 *as of that date is repealed, unless a later enacted statute, that is*
16 *enacted before January 1, 2013, deletes or extends that date.* The
17 repeal of this section renders the board subject to the review
18 required by Division 1.2 (commencing with Section 473).

19 *SEC. 2. Section 2020 of the Business and Professions Code is*
20 *amended to read:*

21 2020. (a) The board may employ an executive director exempt
22 from the provisions of the Civil Service Act and may also employ
23 investigators, legal counsel, medical consultants, and other
24 assistance as it may deem necessary to carry into effect this chapter.
25 The board may fix the compensation to be paid for services subject
26 to the provisions of applicable state laws and regulations and may
27 incur other expenses as it may deem necessary. Investigators
28 employed by the board shall be provided special training in
29 investigating medical practice activities.

30 ~~The~~
31 (b) *The Attorney General shall act as legal counsel for the board*
32 *for any judicial and administrative proceedings and his or her*
33 *services shall be a charge against it.* ~~This section shall become~~
34 ~~inoperative on July 1, 2010, and, as of January 1, 2011, is repealed,~~
35 ~~unless a later enacted statute, which becomes effective on or before~~
36 ~~January 1, 2011, deletes or extends the dates on which it becomes~~
37 ~~inoperative and is repealed.~~

38 (c) *This section shall remain in effect only until January 1, 2013,*
39 *and as of that date is repealed, unless a later enacted statute, that*
40 *is enacted before January 1, 2013, deletes or extends that date.*

1 *SEC. 3. Section 2460 of the Business and Professions Code is*
2 *amended to read:*

3 2460. (a) There is created within the jurisdiction of the Medical
4 Board of California ~~and its divisions~~ the California Board of
5 Podiatric Medicine. ~~This section shall become inoperative on July~~
6 ~~1, 2010, and, as of January 1, 2011, is repealed, unless a later~~
7 ~~enacted statute, which becomes effective on or before January 1,~~
8 ~~2011, deletes or extends the dates on which it becomes inoperative~~
9 ~~and is repealed.~~

10 (b) *This section shall remain in effect only until January 1, 2013,*
11 *and as of that date is repealed, unless a later enacted statute, that*
12 *is enacted before January 1, 2013, deletes or extends that date.*
13 The repeal of this section renders the California Board of Podiatric
14 Medicine subject to the review required by Division 1.2
15 (commencing with Section 473).

16 *SEC. 4. Section 2701 of the Business and Professions Code is*
17 *amended to read:*

18 2701. (a) There is in the Department of Consumer Affairs the
19 Board of Registered Nursing consisting of nine members.

20 ~~Within~~

21 (b) *Within* the meaning of this chapter, board, or the board,
22 refers to the Board of Registered Nursing. Any reference in state
23 law to the Board of Nurse Examiners of the State of California or
24 California Board of Nursing Education and Nurse Registration
25 shall be construed to refer to the Board of Registered Nursing.

26 ~~This section shall become inoperative on July 1, 2010, and, as~~
27 ~~of January 1, 2011, is repealed, unless a later enacted statute, that~~
28 ~~becomes operative on or before January 1, 2011, deletes or extends~~
29 ~~the dates on which it becomes inoperative and is repealed.~~

30 (c) *This section shall remain in effect only until January 1, 2013,*
31 *and as of that date is repealed, unless a later enacted statute, that*
32 *is enacted before January 1, 2013, deletes or extends that date.*
33 The repeal of this section renders the board subject to the review
34 required by Division 1.2 (commencing with Section 473).

35 *SEC. 5. Section 2708 of the Business and Professions Code is*
36 *amended to read:*

37 2708. (a) The board shall appoint an executive officer who
38 shall perform the duties delegated by the board and who shall be
39 responsible to it for the accomplishment of those duties.

40 ~~The~~

1 (b) The executive officer shall be a nurse currently licensed
2 under this chapter and shall possess other qualifications as
3 determined by the board.

4 The

5 (c) The executive officer shall not be a member of the board.

6 ~~This section shall become inoperative on July 1, 2010, and, as~~
7 ~~of January 1, 2011, is repealed, unless a later enacted statute, which~~
8 ~~becomes effective on or before January 1, 2011, deletes or extends~~
9 ~~the dates on which it becomes inoperative and is repealed.~~

10 (d) *This section shall remain in effect only until January 1, 2013,*
11 *and as of that date is repealed, unless a later enacted statute, that*
12 *is enacted before January 1, 2013, deletes or extends that date.*

13 SEC. 6. *Section 3010.5 of the Business and Professions Code*
14 *is amended to read:*

15 3010.5. (a) There is in the Department of Consumer Affairs
16 a State Board of Optometry in which the enforcement of this
17 chapter is vested. The board consists of 11 members, five of whom
18 shall be public members.

19 Six members of the board shall constitute a quorum.

20 (b) The board shall, with respect to conducting investigations,
21 inquiries, and disciplinary actions and proceedings, have the
22 authority previously vested in the board as created pursuant to
23 Section 3010. The board may enforce any disciplinary actions
24 undertaken by that board.

25 ~~(e) This section shall remain in effect only until July 1, 2010,~~
26 ~~and, as of January 1, 2011, is repealed, unless a later enacted~~
27 ~~statute, that is enacted before January 1, 2011, deletes or extends~~
28 ~~that date.~~

29 (c) *This section shall remain in effect only until January 1, 2013,*
30 *and as of that date is repealed, unless a later enacted statute, that*
31 *is enacted before January 1, 2013, deletes or extends that date.*
32 *The repeal of this section renders the board subject to the review*
33 *required by Division 1.2 (commencing with Section 473).*

34 SEC. 7. *Section 3014.6 of the Business and Professions Code*
35 *is amended to read:*

36 3014.6. (a) The board may appoint a person exempt from civil
37 service who shall be designated as an executive officer and who
38 shall exercise the powers and perform the duties delegated by the
39 board and vested in him or her by this chapter.

~~(b) This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.~~

(b) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 8. Section 3685 of the Business and Professions Code, as amended by Section 38 of Chapter 18 of the Fourth Extraordinary Session of the Statutes of 2009, is amended to read:

~~3685. (a) The provisions of Article 8 (commencing with Section 3680) shall become operative on January 1, 2004, but the remaining provisions of this chapter shall become operative on July 1, 2004. It is the intent of the Legislature that the initial implementation of this chapter be administered by fees collected in advance from applicants. Therefore, the committee shall have the power and authority to establish fees and receive applications for licensure or intents to file application statements on and after January 1, 2004. The department shall certify that sufficient funds are available prior to implementing this chapter. Funds from the General Fund may not be used for the purpose of implementing this chapter.~~

~~(b) This chapter shall become inoperative on January 1, 2013, and, as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2013, deletes or extends that date. The~~

~~3685. (a) The repeal of this chapter renders the committee subject to the review required by Division 1.2 (commencing with Section 473).~~

~~(e)~~

(b) The committee shall prepare the report required by Section 473.2 no later than September 1, 2010.

SEC. 9. Section 3686 is added to the Business and Professions Code, to read:

3686. This chapter shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.

SEC. 10. Section 3710 of the Business and Professions Code is amended to read:

1 3710. (a) The Respiratory Care Board of California, hereafter
2 referred to as the board, shall enforce and administer this chapter.

3 ~~This section shall become inoperative on July 1, 2010, and, as~~
4 ~~of January 1, 2011, is repealed, unless a later enacted statute, that~~
5 ~~becomes operative on or before January 1, 2011, deletes or extends~~
6 ~~the dates on which it becomes inoperative and is repealed.~~

7 The

8 (b) *This section shall remain in effect only until January 1, 2013,*
9 *and as of that date is repealed, unless a later enacted statute, that*
10 *is enacted before January 1, 2013, deletes or extends that date.*

11 The repeal of this section renders the board subject to the review
12 required by Division 1.2 (commencing with Section 473).

13 SEC. 11. *Section 4001 of the Business and Professions Code*
14 *is amended to read:*

15 4001. (a) There is in the Department of Consumer Affairs a
16 California State Board of Pharmacy in which the administration
17 and enforcement of this chapter is vested. The board consists of
18 13 members.

19 (b) The Governor shall appoint seven competent pharmacists
20 who reside in different parts of the state to serve as members of
21 the board. The Governor shall appoint four public members, and
22 the Senate Committee on Rules and the Speaker of the Assembly
23 shall each appoint a public member who shall not be a licensee of
24 the board, any other board under this division, or any board referred
25 to in Section 1000 or 3600.

26 (c) At least five of the seven pharmacist appointees to the board
27 shall be pharmacists who are actively engaged in the practice of
28 pharmacy. Additionally, the membership of the board shall include
29 at least one pharmacist representative from each of the following
30 practice settings: an acute care hospital, an independent community
31 pharmacy, a chain community pharmacy, and a long-term health
32 care or skilled nursing facility. The pharmacist appointees shall
33 also include a pharmacist who is a member of a labor union that
34 represents pharmacists. For the purposes of this subdivision, a
35 “chain community pharmacy” means a chain of 75 or more stores
36 in California under the same ownership, and an “independent
37 community pharmacy” means a pharmacy owned by a person or
38 entity who owns no more than four pharmacies in California.

39 (d) Members of the board shall be appointed for a term of four
40 years. No person shall serve as a member of the board for more

1 than two consecutive terms. Each member shall hold office until
2 the appointment and qualification of his or her successor or until
3 one year shall have elapsed since the expiration of the term for
4 which the member was appointed, whichever first occurs.
5 Vacancies occurring shall be filled by appointment for the
6 unexpired term.

7 (e) Each member of the board shall receive a per diem and
8 expenses as provided in Section 103.

9 (f) In accordance with Sections 101.1 and 473.1, this section
10 shall become inoperative on July 1, 2010, and, as of January 1,
11 2011, is repealed, unless a later enacted statute, that becomes
12 effective on or before January 1, 2011, deletes or extends the dates
13 on which it becomes inoperative and is repealed. *remain in effect*
14 *only until January 1, 2013, and as of that date is repealed, unless*
15 *a later enacted statute, that is enacted before January 1, 2013,*
16 *deletes or extends that date.* The repeal of this section renders the
17 board subject to the review required by Division 1.2 (commencing
18 with Section 473).

19 *SEC. 12. Section 4003 of the Business and Professions Code*
20 *is amended to read:*

21 4003. (a) The board may appoint a person exempt from civil
22 service who shall be designated as an executive officer and who
23 shall exercise the powers and perform the duties delegated by the
24 board and vested in him or her by this chapter. The executive
25 officer may or may not be a member of the board as the board may
26 determine.

27 (b) The executive officer shall receive the compensation as
28 established by the board with the approval of the Director of
29 Finance. The executive officer shall also be entitled to travel and
30 other expenses necessary in the performance of his or her duties.

31 (c) The executive officer shall maintain and update in a timely
32 fashion records containing the names, titles, qualifications, and
33 places of business of all persons subject to this chapter.

34 (d) The executive officer shall give receipts for all money
35 received by him or her and pay it to the Department of Consumer
36 Affairs, taking its receipt therefor. Besides the duties required by
37 this chapter, the executive officer shall perform other duties
38 pertaining to the office as may be required of him or her by the
39 board.

(e) In accordance with Sections 101.1 and 473.1, this section shall ~~become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes effective on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.~~ *remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.*

SECTION 1.

SEC. 13. Section 4110 of the Business and Professions Code is amended to read:

4110. (a) No person shall conduct a pharmacy in the State of California unless he or she has obtained a license from the board. A license shall be required for each pharmacy owned or operated by a specific person. A separate license shall be required for each of the premises of any person operating a pharmacy in more than one location. The license shall be renewed annually. The board may, by regulation, determine the circumstances under which a license may be transferred.

(b) The board may, at its discretion, issue a temporary permit, when the ownership of a pharmacy is transferred from one person to another, upon the conditions and for any periods of time as the board determines to be in the public interest. A temporary permit fee shall be required in an amount established by the board as specified in subdivision (a) of Section 4400. When needed to protect public safety, a temporary permit may be issued for a period not to exceed 180 days, and may be issued subject to terms and conditions the board deems necessary. If the board determines a temporary permit was issued by mistake or denies the application for a permanent license or registration, the temporary license or registration shall terminate upon either personal service of the notice of termination upon the permitholder or service by certified mail, return receipt requested, at the permitholder's address of record with the board, whichever comes first. Neither for purposes of retaining a temporary permit nor for purposes of any disciplinary or license denial proceeding before the board shall the temporary permitholder be deemed to have a vested property right or interest in the permit.

SEC. 13.5. Section 4110 of the Business and Professions Code is amended to read:

1 4110. (a) No person shall conduct a pharmacy in the State of
2 California unless he or she has obtained a license from the board.
3 A license shall be required for each pharmacy owned or operated
4 by a specific person. A separate license shall be required for each
5 of the premises of any person operating a pharmacy in more than
6 one location. The license shall be renewed annually. The board
7 may, by regulation, determine the circumstances under which a
8 license may be transferred.

9 (b) The board may, at its discretion, issue a temporary permit,
10 when the ownership of a pharmacy is transferred from one person
11 to another, upon the conditions and for any periods of time as the
12 board determines to be in the public interest. A temporary permit
13 fee shall be *required in an amount* established by the board ~~at an~~
14 ~~amount not to exceed the annual fee for renewal of a permit to~~
15 ~~conduct a pharmacy.~~ *as specified in subdivision (a) of Section*
16 *4400.* When needed to protect public safety, a temporary permit
17 may be issued for a period not to exceed 180 days, and may be
18 issued subject to terms and conditions the board deems necessary.
19 If the board determines a temporary permit was issued by mistake
20 or denies the application for a permanent license or registration,
21 the temporary license or registration shall terminate upon either
22 personal service of the notice of termination upon the permitholder
23 or service by certified mail, return receipt requested, at the
24 permitholder's address of record with the board, whichever comes
25 first. Neither for purposes of retaining a temporary permit nor for
26 purposes of any disciplinary or license denial proceeding before
27 the board shall the temporary permitholder be deemed to have a
28 vested property right or interest in the permit.

29 (c) *The board may allow the temporary use of a mobile*
30 *pharmacy when a pharmacy is destroyed or damaged, the mobile*
31 *pharmacy is necessary to protect the health and safety of the public,*
32 *and the following conditions are met:*

33 (1) *The mobile pharmacy shall provide services only on or*
34 *immediately contiguous to the site of the damaged or destroyed*
35 *pharmacy.*

36 (2) *The mobile pharmacy is under the control and management*
37 *of the pharmacist-in-charge of the pharmacy that was destroyed*
38 *or damaged.*

39 (3) *A licensed pharmacist is on the premises while drugs are*
40 *being dispensed.*

1 (4) Reasonable security measures are taken to safeguard the
2 drug supply maintained in the mobile pharmacy.

3 (5) The pharmacy operating the mobile pharmacy provides the
4 board with records of the destruction of, or damage to, the
5 pharmacy and an expected restoration date.

6 (6) Within three calendar days of restoration of the pharmacy
7 services, the board is provided with notice of the restoration of
8 the permanent pharmacy.

9 (7) The mobile pharmacy is not operated for more than 48 hours
10 following the restoration of the permanent pharmacy.

11 ~~SEC. 2.~~

12 ~~SEC. 14.~~ Section 4127.5 of the Business and Professions Code
13 is repealed.

14 ~~SEC. 3.~~

15 ~~SEC. 15.~~ Section 4127.8 of the Business and Professions Code
16 is amended to read:

17 4127.8. The board may, at its discretion, issue a temporary
18 license to compound injectable sterile drug products, when the
19 ownership of a pharmacy that is licensed to compound injectable
20 sterile drug products is transferred from one person to another,
21 upon the conditions and for any periods of time as the board
22 determines to be in the public interest. A temporary license fee
23 shall be required in an amount established by the board as specified
24 in subdivision (u) of Section 4400. When needed to protect public
25 safety, a temporary license may be issued for a period not to exceed
26 180 days, and may be issued subject to terms and conditions the
27 board deems necessary. If the board determines a temporary license
28 was issued by mistake or denies the application for a permanent
29 license, the temporary license shall terminate upon either personal
30 service of the notice of termination upon the licenseholder or
31 service by certified mail, return receipt requested at the
32 licenseholder's address of record with the board, whichever comes
33 first. Neither for purposes of retaining a temporary license nor for
34 purposes of any disciplinary or license denial proceeding before
35 the board shall the temporary licenseholder be deemed to have a
36 vested property right or interest in the license.

37 ~~SEC. 4.~~

38 ~~SEC. 16.~~ Section 4160 of the Business and Professions Code
39 is amended to read:

1 4160. (a) A person may not act as a wholesaler of any
2 dangerous drug or dangerous device unless he or she has obtained
3 a license from the board.

4 (b) Upon approval by the board and the payment of the required
5 fee, the board shall issue a license to the applicant.

6 (c) A separate license shall be required for each place of business
7 owned or operated by a wholesaler. Each license shall be renewed
8 annually and shall not be transferable.

9 (d) The board shall not issue or renew a wholesaler license until
10 the wholesaler identifies a designated representative-in-charge and
11 notifies the board in writing of the identity and license number of
12 that designated representative. The designated
13 representative-in-charge shall be responsible for the wholesaler's
14 compliance with state and federal laws governing wholesalers. A
15 wholesaler shall identify and notify the board of a new designated
16 representative-in-charge within 30 days of the date that the prior
17 designated representative-in-charge ceases to be the designated
18 representative-in-charge. A pharmacist may be identified as the
19 designated representative-in-charge.

20 (e) A drug manufacturer premises licensed by the Food and
21 Drug Administration or licensed pursuant to Section 111615 of
22 the Health and Safety Code that only distributes dangerous drugs
23 and dangerous devices of its own manufacture is exempt from this
24 section and Section 4161.

25 (f) The board may issue a temporary license, upon conditions
26 and for periods of time as the board determines to be in the public
27 interest. A temporary license fee shall be required in an amount
28 established by the board as specified in subdivision (f) of Section
29 4400. When needed to protect public safety, a temporary license
30 may be issued for a period not to exceed 180 days, subject to terms
31 and conditions that the board deems necessary. If the board
32 determines that a temporary license was issued by mistake or denies
33 the application for a permanent license, the temporary license shall
34 terminate upon either personal service of the notice of termination
35 upon the licenseholder or service by certified mail, return receipt
36 requested, at the licenseholder's address of record with the board,
37 whichever occurs first. Neither for purposes of retaining a
38 temporary license, nor for purposes of any disciplinary or license
39 denial proceeding before the board, shall the temporary

1 licenseholder be deemed to have a vested property right or interest
2 in the license.

3 (g) This section shall become operative on January 1, 2006.

4 *SEC. 16.5. Section 4160 of the Business and Professions Code*
5 *is amended to read:*

6 4160. (a) A person may not act as a wholesaler of any
7 dangerous drug or dangerous device unless he or she has obtained
8 a license from the board.

9 (b) Upon approval by the board and the payment of the required
10 fee, the board shall issue a license to the applicant.

11 (c) A separate license shall be required for each place of business
12 owned or operated by a wholesaler. Each license shall be renewed
13 annually and shall not be transferable.

14 ~~(d) The board shall not issue or renew a wholesaler license until~~
15 ~~the wholesaler identifies a designated representative-in-charge and~~
16 ~~notifies the board in writing of the identity and license number of~~
17 ~~that designated representative. Every wholesaler shall be supervised~~
18 ~~or managed by a designated representative-in-charge. The~~
19 ~~designated representative-in-charge shall be responsible for the~~
20 ~~wholesaler's compliance with state and federal laws governing~~
21 ~~wholesalers. A wholesaler shall identify and notify the board of a~~
22 ~~new designated representative-in-charge within 30 days of the date~~
23 ~~that the prior designated representative-in-charge ceases to be As~~
24 ~~part of its initial application for a license, and for each renewal,~~
25 ~~each wholesaler shall, on a form designed by the board, provide~~
26 ~~identifying information and the California license number for a~~
27 ~~designated representative or pharmacist proposed to serve as the~~
28 ~~designated representative-in-charge. A pharmacist may be~~
29 ~~identified as the designated representative-in-charge. The proposed~~
30 ~~designated representative-in-charge shall be subject to approval~~
31 ~~by the board. The board shall not issue or renew a wholesaler~~
32 ~~license without identification of an approved designated~~
33 ~~representative-in-charge for the wholesaler.~~

34 (e) Every wholesaler shall notify the board in writing, on a form
35 designed by the board, within 30 days of the date when a
36 designated representative-in-charge ceases to act as the designated
37 representative-in-charge, and shall on the same form propose
38 another designated representative or pharmacist to take over as
39 the designated representative-in-charge. The proposed replacement
40 designated representative-in-charge shall be subject to approval

1 *by the board. If disapproved, the wholesaler shall propose another*
2 *replacement within 15 days of the date of disapproval, and shall*
3 *continue to name proposed replacements until a designated*
4 *representative-in-charge is approved by the board.*

5 ~~(e)~~

6 (f) A drug manufacturer premises licensed by the Food and Drug
7 Administration or licensed pursuant to Section 111615 of the
8 Health and Safety Code that only distributes dangerous drugs and
9 dangerous devices of its own manufacture is exempt from this
10 section and Section 4161.

11 ~~(f)~~

12 (g) The board may issue a temporary license, upon conditions
13 and for periods of time as the board determines to be in the public
14 interest. A temporary license fee shall be ~~five hundred fifty dollars~~
15 ~~(\$550) or another~~ *required in an amount established by the board*
16 ~~not to exceed the annual fee for renewal of a license to compound~~
17 ~~injectable sterile drug products as specified in subdivision (f) of~~
18 *Section 4400*. When needed to protect public safety, a temporary
19 license may be issued for a period not to exceed 180 days, subject
20 to terms and conditions that the board deems necessary. If the
21 board determines that a temporary license was issued by mistake
22 or denies the application for a permanent license, the temporary
23 license shall terminate upon either personal service of the notice
24 of termination upon the licenseholder or service by certified mail,
25 return receipt requested, at the licenseholder's address of record
26 with the board, whichever occurs first. Neither for purposes of
27 retaining a temporary license, nor for purposes of any disciplinary
28 or license denial proceeding before the board, shall the temporary
29 licenseholder be deemed to have a vested property right or interest
30 in the license.

31 ~~(g) This section shall become operative on January 1, 2006.~~

32 ~~SEC. 5.~~

33 *SEC. 17.* Section 4400 of the Business and Professions Code
34 is amended to read:

35 4400. The amount of fees and penalties prescribed by this
36 chapter, except as otherwise provided, is that fixed by the board
37 according to the following schedule:

38 (a) The fee for a nongovernmental pharmacy license shall be
39 four hundred dollars (\$400) and may be increased to five hundred
40 twenty dollars (\$520). The fee for the issuance of a temporary

1 nongovernmental pharmacy permit shall be two hundred fifty
2 dollars (\$250) and may be increased to three hundred twenty-five
3 dollars (\$325).

4 (b) The fee for a nongovernmental pharmacy license annual
5 renewal shall be two hundred fifty dollars (\$250) and may be
6 increased to three hundred twenty-five dollars (\$325).

7 (c) The fee for the pharmacist application and examination shall
8 be two hundred dollars (\$200) and may be increased to two
9 hundred sixty dollars (\$260).

10 (d) The fee for regrading an examination shall be ninety dollars
11 (\$90) and may be increased to one hundred fifteen dollars (\$115).
12 If an error in grading is found and the applicant passes the
13 examination, the regrading fee shall be refunded.

14 (e) The fee for a pharmacist license and biennial renewal shall
15 be one hundred fifty dollars (\$150) and may be increased to one
16 hundred ninety-five dollars (\$195).

17 (f) The fee for a nongovernmental wholesaler license and annual
18 renewal shall be six hundred dollars (\$600), and may be increased
19 to seven hundred eighty dollars (\$780). The application fee for
20 any additional location after licensure of the first 20 locations shall
21 be two hundred twenty-five dollars (\$225) and may be increased
22 to three hundred dollars (\$300). A temporary license fee shall be
23 five hundred fifty dollars (\$550) and may be increased to seven
24 hundred fifteen dollars (\$715).

25 (g) The fee for a hypodermic license and renewal shall be one
26 hundred twenty-five dollars (\$125) and may be increased to one
27 hundred sixty-five dollars (\$165).

28 (h) (1) The fee for application, investigation, and issuance of
29 license as a designated representative pursuant to Section 4053
30 shall be two hundred fifty-five dollars (\$255) and may be increased
31 to three hundred thirty dollars (\$330).

32 (2) The fee for the annual renewal of a license as a designated
33 representative shall be one hundred fifty dollars (\$150) and may
34 be increased to one hundred ninety-five dollars (\$195).

35 (i) (1) The fee for the application, investigation, and issuance
36 of a license as a designated representative for a veterinary
37 food-animal drug retailer pursuant to Section 4053 shall be two
38 hundred fifty-five dollars (\$255) and may be increased to three
39 hundred thirty dollars (\$330).

(2) The fee for the annual renewal of a license as a designated representative for a veterinary food-animal drug retailer shall be one hundred fifty dollars (\$150) and may be increased to one hundred ninety-five dollars (\$195).

(j) (1) The application fee for a nonresident wholesaler's license issued pursuant to Section 4161 shall be six hundred dollars (\$600) and may be increased to seven hundred eighty dollars (\$780).

(2) For nonresident wholesalers who have 21 or more facilities operating nationwide the application fees for the first 20 locations shall be six hundred dollars (\$600) and may be increased to seven hundred eighty dollars (\$780). The application fee for any additional location after licensure of the first 20 locations shall be two hundred twenty-five dollars (\$225) and may be increased to three hundred dollars (\$300). A temporary license fee shall be five hundred fifty dollars (\$550) and may be increased to seven hundred fifteen dollars (\$715).

(3) The annual renewal fee for a nonresident wholesaler's license issued pursuant to Section 4161 shall be six hundred dollars (\$600) and may be increased to seven hundred eighty dollars (\$780).

(k) The fee for evaluation of continuing education courses for accreditation shall be set by the board at an amount not to exceed forty dollars (\$40) per course hour.

(l) The fee for an intern pharmacist license shall be ninety dollars (\$90) and may be increased to one hundred fifteen dollars (\$115). The fee for transfer of intern hours or verification of licensure to another state shall be twenty-five dollars (\$25) and may be increased to thirty dollars (\$30).

(m) The board may waive or refund the additional fee for the issuance of a license where the license is issued less than 45 days before the next regular renewal date.

(n) The fee for the reissuance of any license, or renewal thereof, that has been lost or destroyed or reissued due to a name change shall be thirty-five dollars (\$35) and may be increased to forty-five dollars (\$45).

(o) The fee for the reissuance of any license, or renewal thereof, that must be reissued because of a change in the information, shall be one hundred dollars (\$100) and may be increased to one hundred thirty dollars (\$130).

(p) It is the intent of the Legislature that, in setting fees pursuant to this section, the board shall seek to maintain a reserve in the

1 Pharmacy Board Contingent Fund equal to approximately one
2 year's operating expenditures.

3 (q) The fee for any applicant for a nongovernmental clinic
4 license shall be four hundred dollars (\$400) and may be increased
5 to five hundred twenty dollars (\$520) for each license. The annual
6 fee for renewal of the license shall be two hundred fifty dollars
7 (\$250) and may be increased to three hundred twenty-five dollars
8 (\$325) for each license.

9 (r) The fee for the issuance of a pharmacy technician license
10 shall be eighty dollars (\$80) and may be increased to one hundred
11 five dollars (\$105). The fee for renewal of a pharmacy technician
12 license shall be one hundred dollars (\$100) and may be increased
13 to one hundred thirty dollars (\$130).

14 (s) The fee for a veterinary food-animal drug retailer license
15 shall be four hundred five dollars (\$405) and may be increased to
16 four hundred twenty-five dollars (\$425). The annual renewal fee
17 for a veterinary food-animal drug retailer license shall be two
18 hundred fifty dollars (\$250) and may be increased to three hundred
19 twenty-five dollars (\$325).

20 (t) The fee for issuance of a retired license pursuant to Section
21 4200.5 shall be thirty-five dollars (\$35) and may be increased to
22 forty-five dollars (\$45).

23 (u) The fee for issuance or renewal of a nongovernmental license
24 to compound sterile drug products shall be six hundred dollars
25 (\$600) and may be increased to seven hundred eighty dollars
26 (\$780). The fee for a temporary license shall be five hundred fifty
27 dollars (\$550) and may be increased to seven hundred fifteen
28 dollars (\$715).

29 *SEC. 18. Section 5810 of the Business and Professions Code*
30 *is amended to read:*

31 5810. (a) This chapter shall be subject to the review required
32 by Division 1.2 (commencing with Section 473).

33 (b) This chapter shall remain in effect only until January 1, ~~2010~~
34 2013, and as of that date is repealed, unless a later enacted statute,
35 that is enacted before January 1, ~~2010~~ 2013, deletes or extends
36 that date.

37 *SEC. 19. Section 13.5 of this bill incorporates amendments to*
38 *Section 4110 of the Business and Professions Code proposed by*
39 *this bill and SB 819. It shall only become operative if (1) both bills*
40 *are enacted and become effective on or before January 1, 2010,*

1 (2) each bill amends Section 4110 of the Business and Profession
2 Code, and (3) this bill is enacted after SB 819, in which case
3 Section 4110 of the Business and Professions Code, as amended
4 by SB 819, shall remain operative only until the operative date of
5 this bill, at which time Section 13.5 of this bill shall become
6 operative, and Section 13 of this bill shall not become operative.
7 SEC. 20. Section 16.5 of this bill incorporates amendments to
8 Section 4160 of the Business and Professions Code proposed by
9 both this bill and SB 821. It shall only become operative if (1) both
10 bills are enacted and become effective on or before January 1,
11 2010, (2) each bill amends Section 4160 of the Business and
12 Professions Code, and (3) this bill is enacted after SB 821, in which
13 case Section 16 of this bill shall not become operative.